

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Engineering

AGENDA DATE: October 20, 2009

CONTACT PERSON/PHONE: R. Alan Shubert, P.E., City Engineer 541-4423

DISTRICT(S) AFFECTED: All Districts

SUBJECT:

That the City Engineer be authorized to sign the First Amendment to the Agreement for Professional Services by and between the City of El Paso and Kimley-Horn and Associates, Inc. for a project known as "Reconstruction of Taxiway J and Taxiway M" in the amount of eighteen thousand two hundred twenty five dollars and 98/100 (\$18,225.98) thereby extending the contract amount from \$628,083.34 to a total of \$646,309.32.

BACKGROUND / DISCUSSION:

The amendment is for additional design services for the reconstruction of an area of Taxiway J outside the original project limits. The area being designed failed and is currently blocked off and out of service. Due to the proximity to the original project, FAA approved the remaining funds for the design and construction for this additional area. The amendment will allow the City to include the additional area (quantities) into the construction contract for the project.

PRIOR COUNCIL ACTION:

City Council awarded the original professional services agreement with Kimley-Horn and Associates, Inc. October 16, 2007.

AMOUNT AND SOURCE OF FUNDING:

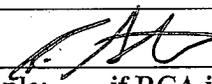
62620031/508016/11514/G620AIP0025 Funding Source: FAA AIP Grants and Airport Enterprise Fund

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: _____
(Example:  if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA: _____

CITY MANAGER: _____ **DATE:** _____

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Engineer be authorized to sign the First Amendment to the Agreement for Professional Services by and between the City of El Paso and Kimley-Horn and Associates, Inc. for a project known as "Reconstruction of Taxiway J and Taxiway M" in the amount of eighteen thousand two hundred twenty five dollars and 98/100 (\$18,225.98) thereby extending the contract amount from \$628,083.34 to a total of \$646,309.32.

ADOPTED THIS _____ DAY OF _____ 2009.

CITY OF EL PASO:

John F. Cook, Mayor

ATTEST:

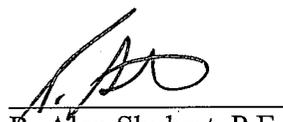
Richarda Duffy Momsen,
City Clerk

APPROVED AS TO FORM:



Mark Shoosmith
Assistant City Attorney

APPROVED AS TO CONTENT



R. Alan Shubert, P.E.
City Engineer

THE STATE OF TEXAS)
) AMENDMENT TO THE AGREEMENT
COUNTY OF EL PASO) FOR PROFESSIONAL SERVICES

This Amendment to that certain Agreement for Professional Services is made this _____ day of _____, 2009, by and between the City of El Paso, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter referred to as the ("Owner"), and Kimley-Horn and Associates, Inc., a North Carolina Corporation, hereinafter referred to as the ("Consultant").

WHEREAS, on October 16, 2007, the Owner entered into an agreement for professional services with the Consultant for a Project known as "RECONSTRUCTION OF TAXIWAY J AND TAXIWAY M" (the "Project"), for a contract amount of \$628,083.34; and

WHEREAS, the Agreement may be amended under the provisions of Section 3.2 and Attachment "C"; and

WHEREAS, the parties hereto desire to amend the Agreement, pursuant to Sections 3.1, 3.2, and Attachment "D", because the Owner desires to extend additional services in the amount of \$18,225.98 for design services for the reconstruction of a section of Taxiway J, thereby extending the contract value from \$628,083.34 to \$646,309.32. The additional design services for Taxiway J include the design of a pavement cross section and its corresponding geometric layout.

NOW THEREFORE, in consideration of the mutual promises set forth in this Amendment and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Scope of Services.** The Owner hereby authorizes the Consultant to continue to perform the Services as further described in Attachment "A" of the original agreement.

2. **Payments to Consultant.**

Payments to the Consultant shall be made pursuant to the schedule enumerated within Attachment "D" of the original agreement. Payment to the Consultant shall not exceed **EIGHTEEN THOUSAND TWO HUNDRED TWENTY FIVE DOLLARS AND 98/100 (\$18,225.98).**

3. **Time of Completion.**

The Services shall be completed within the original project schedule as set forth in the Agreement, following the Owner's written Notice to Proceed to the Consultant.

4. **Terms and Conditions.**

All terms and conditions of the Agreement and all subsequent Amendments thereto, except as herein revised, shall remain in full force and effect.

(Signature page to follow)

WITNESS THE FOLLOWING SIGNATURES AND SEALS:

THE CITY OF EL PASO



R. Alan Shubert, P.E.
City Engineer

CONSULTANT



Pierre Pretorius
Principal

APPROVED AS TO FORM:

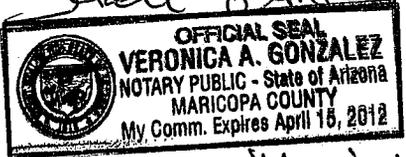


Mark Shoosmith
Assistant City Attorney

ACKNOWLEDGEMENT

THE STATE OF ARIZONA)
)
COUNTY OF MARICOPA)

This instrument was acknowledged before me on this 9 day of October, 2009
by Pierre Pretorius as Principal of Kimley-Horn and Associates, Inc.

State of Arizona

County of Maricopa

The notary seal is rectangular with a circular emblem on the left containing a scale of justice. The text to the right of the emblem reads: "OFFICIAL SEAL", "VERONICA A. GONZALEZ", "NOTARY PUBLIC - State of Arizona", "MARICOPA COUNTY", and "My Comm. Expires April 15, 2012".

Veronica A. Gonzalez

Notary Public, State of Arizona

ATTACHMENTS A & B

El Paso International Airport
 City of El Paso
 Date : August 31, 2009

KIMLEY-HORN ASSOCIATES
 Phoenix, Arizona

DERIVATION OF ENGINEERING FEE PROPOSAL
 (Construction Services)

1. DIRECT LABOR

<u>Classification</u>	<u>Est. Hrs</u>	<u>Average Hriv Rate</u>	<u>Labor Costs</u>	<u>EXTENDED TOTAL</u>
<u>SCHEDULE III SERVICES (Construction Services)</u>				
Principal Engineer		218.00		
Project Manager	20	180.00	3,600.00	
Engineering Analyst		100.00		
Senior Inspector		170.00		
Construction Inspector		120.00		
CADD Designer	6	110.00	660.00	
Clerical/Admin		60.00		
Subtotal Schedule III Services	26			\$4,260.00
TOTAL DIRECT LABOR	26			\$4,260.00

* Includes Overhead at 186.32% of Labor Cost and a Profit at 10% of Labor and Overhead

2. DIRECT EXPENSE

<u>SCHEDULE III SERVICES (Construction Services)</u>		
Travel, Lodging, Per Diem, Vehicle Rental		796.00
Expense Allocation - 5.8%		247.08
Computer Costs		2,000.00
Subtotal Schedule III Services		\$3,043.08
Five (5%) Markup		\$152.15
TOTAL DIRECT EXPENSES:		\$3,195.23

3. SUBCONSULTANTS SERVICES

<u>SCHEDULE III SERVICES (Construction Services)</u>		
Roy D. McQueen and Associates		
CEA Engineering Group		
Subtotal Schedule III Services		\$0.00
Five (5%) Markup		\$0.00
TOTAL SUBCONSULTANT SERVICES:		\$0.00
TOTAL ENGINEERING FEE:		\$7,455.23

ATTACHMENTS A & B

El Paso International Airport
 City of El Paso
 Date : August 31, 2009

Kimley - Horn and Associates, Inc.
 Phoenix, Arizona

Reconstructioin of Taxiway J and Taxiway M - Change Order

DERIVATION OF ENGINEERING FEE PROPOSAL
 (Engineering Design Services)

1. DIRECT LABOR

<u>TASK</u>	<u>DESCRIPTION</u>	<u>MANHOURS</u>	<u>TOTAL *</u>	<u>EXTENDED TOTAL</u>
<u>SCHEDULE I SERVICES (PRE-DESIGN SERVICES)</u>				
001	Project Administration	11	1,980	
002	Record's Research	2	220	
003	Investigations	1	180	
004	Concept Development	0	-	
005	Initial Quantities and Cost Estimate	0	-	
006	Initial Construction Phasing and Staging	0	-	
007	Pre-Design Meeting	0	-	
008	Quality Review	0	-	
Subtotal Schedule I Labor		14		\$ 2,380.00
<u>SCHEDULE II SERVICES (DESIGN SERVICES)</u>				
001	Project Administration	0	-	
002	Engineer's Design Report	0	-	
003	Construction Drawings (Final Submittal)	36	4,590	
004	Airline information Meeting	0	-	
005	Final Plans and Specification Submittal	0	-	
006	Final Airline information Meeting	0	-	
007	Pre-Bid Assistance	0	-	
Subtotal Schedule II Labor		36		\$ 4,590.00
TOTAL DIRECT LABOR :		50		\$ 6,970.00

* Includes Overhead at 182% of Labor Cost and a Profit at 10% of Labor and Overhead

2. DIRECT EXPENSES

<u>SCHEDULE I SERVICES (PRE-DESIGN SERVICES)</u>			
Travel & Per-Diem		398.00	
Expense Allocation - 5.8%		138.04	
Computer Costs		15.00	
Subtotal Schedule I Direct Expenses			\$ 551.04
<u>SCHEDULE II SERVICES (DESIGN SERVICES)</u>			
Travel & Per-Diem			
Expense Allocation - 5.8%		266.22	
Computer Costs		202.50	
Subtotal Schedule II Direct Expenses			\$ 468.72
Five (5%) Markup			\$ 50.99
TOTAL DIRECT EXPENSES :			\$ 1,070.75

Paul W. 9-2-09.

ATTACHMENTS A & B

3. SUBCONSULTANT SERVICES

SCHEDULE I SERVICES (PRE-DESIGN SERVICES)

ROY D. McQUEEN AND ASSOCIATES - Pavement Design

GW 2 - Air Emission Study

BROCK AND BUSTILLOS - Surveying Services

CEA Engineering Group

LICON ENGINEERING CO - Geotechnical Services

2,600.00

Subtotal Schedule I Subconsultants

\$ 2,600.00

SCHEDULE II SERVICES (DESIGN SERVICES)

ROY D. McQUEEN AND ASSOCIATES - Pavement Design

CEA Engineering Group

Subtotal Schedule II Subconsultants

\$

Five (5%) Markup

\$

130.00

TOTAL SUBCONSULTANT SERVICES :

\$

2,730.00

4. ESTIMATE OF REIMBURSABLE EXPENSES

REPRODUCTION OF PLAN AND FINAL BID DOCUMENTS

- 100% Submittal - 3 Sets of Contract Documents & Plans

- Bid Submittal - 30 Sets of Contract Documents & Plans

TOTAL REIMBURSABLE EXPENSES :

\$

-

TOTAL ENGINEERING FEE :

\$

10,770.75

Reconstruction of Taxiway J and Taxiway M - Change Order

El Paso International Airport
 City of El Paso
 File: Cost-Proposal-Taxiway-J-Reconstruct Change Order 8-31-2009.xls
 Date: August 31, 2009

DERIVATION OF ENGINEERING FEE PROPOSAL
 (Engineering Design Services)

No. of Sheets	Principal Engineer	Project Manager	Professional Engineer	Engineering Analyst	Senior Construction Engineer	Field Inspector	Cadd Designer	Clerical	Total Man-Hours	Labor Cost	Hours Per Sheet	Trips	Nights	People	Cars	Month	Airfare \$	Hotel \$	Perdiem \$	Car Rental \$	Truck Rental / Month \$
SCHEDULE I SERVICES (PRE-DESIGN SERVICES)																					
001 Project Administration																					
1		11	0	0	0	0	0	0	11	\$ 1,980											
2		9							9	\$ 1,620											
3		2							2	\$ 360											
4									0	\$ -											
5									0	\$ -											
6									0	\$ -											
7									0	\$ -											
8									0	\$ -											
9									0	\$ -											
10									0	\$ -											
11									0	\$ -											
12									0	\$ -											
002 Record's Research																					
1		0	0	0	0	0	2	0	2	\$ 220											
003 Investigations																					
1		0	1	0	0	0	0	0	1	\$ 180											
2									0	\$ -											
3									1	\$ 150											
004 Concept Development																					
1		0	0	0	0	0	0	0	0	\$ -											
2									0	\$ -											
3									0	\$ -											
4									0	\$ -											
5									0	\$ -											
6									0	\$ -											
7									0	\$ -											
8									0	\$ -											
9									0	\$ -											
10									0	\$ -											
11									0	\$ -											
12									0	\$ -											
005 Initial Quantities and Cost Estimate																					
1		0	0	0	0	0	0	0	0	\$ -											
2									0	\$ -											
006 Initial Construction Phasing and Staging																					
1		0	0	0	0	0	0	0	0	\$ -											
2									0	\$ -											
3									0	\$ -											
4									0	\$ -											
007 Pre-Design Meeting																					
1		0	0	0	0	0	0	0	0	\$ -											
008 Quality Review																					
1		0	0	0	0	0	0	0	0	\$ -											
SUBTOTAL SCHEDULE I SERVICES																					
		0	12	0	0	0	0	0	14	\$ 2,380											
SCHEDULE II SERVICES (DESIGN SERVICES)																					
001 Project Administration																					
1		0	0	0	0	0	0	0	0	\$ -											
2									0	\$ -											
3									0	\$ -											
									0	\$ -											
									0	\$ -											

ATTACHMENTS A & B

Reconstruction of Taxiway J and Taxiway M - Change Order

El Paso International Airport
 City of El Paso
 File: Cost-Proposal-Taxiway-J-Reconstruct Change Order 8-31-2009.xls
 Date: August 31, 2009

DERIVATION OF ENGINEERING FEE PROPOSAL
 (Engineering Design Services)

No. of Sheets	Principal Engineer	Project Manager	Professional Engineer	Engineering Analyst	Senior Construction Engineer	Field Inspector	Civil Designer	Clerical	Total Man-Hrs	Labor Cost	Hours Per Sheet	Trips	Nights	People	Cars	Month	Airfare	Hotel	Perdiem	Car Rental	Truck Rental/ Month
002 Engineer's Design Report																					
1	60% Submittal	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	350.00	150.00	48.00	65.00	700.00
2	OCDA								0	0	0	0	0	0	0	0	0	0	0	0	
003 Construction Drawings (Final Submittal)																					
1	Cover Sheet	2	0	0	0	0	0	0	33	4,260	0	0	0	0	0	0	0	0	0	0	
2	Abbreviations, General Notes and Legend	2							0	0	0	0	0	0	0	0	0	0	0	0	
3	Summary of Quantities	1							0	0	0	0	0	0	0	0	0	0	0	0	
4	Project Layout Plan (Contractor Staging Area)	1							0	0	0	0	0	0	0	0	0	0	0	0	
5	Horizontal and Vertical Control Plan	3							0	0	0	0	0	0	0	0	0	0	0	0	
6	Storm Water Pollution Prevention Plan	2							0	0	0	0	0	0	0	0	0	0	0	0	
7	Construction Phasing and Barricade	4							0	0	0	0	0	0	0	0	0	0	0	0	
8	Demolition Plan	7							0	0	0	0	0	0	0	0	0	0	0	0	
9	Typical Sections (Including Alternatives)	2							0	0	0	0	0	0	0	0	0	0	0	0	
10	Geometric Layout	7							0	0	0	0	0	0	0	0	0	0	0	0	
11	Grading and Drainage	7							0	0	0	0	0	0	0	0	0	0	0	0	
12	Drainage Details	12							0	0	0	0	0	0	0	0	0	0	0	0	
13	Paving Plan and Profiles	1							0	0	0	0	0	0	0	0	0	0	0	0	
14	Paving Joint Layout Plans	14							0	0	0	0	0	0	0	0	0	0	0	0	
15	Paving Details	7							0	0	0	0	0	0	0	0	0	0	0	0	
16	Pavement Marking Plans	2							0	0	0	0	0	0	0	0	0	0	0	0	
17	Pavement Marking Details	7							0	0	0	0	0	0	0	0	0	0	0	0	
18	Deriving Log Location Map	1							0	0	0	0	0	0	0	0	0	0	0	0	
19	Electrical Layout Plan	1							0	0	0	0	0	0	0	0	0	0	0	0	
20	Electrical Details	1							0	0	0	0	0	0	0	0	0	0	0	0	
21	Cross Sections (For Design Purposes)	1							0	0	0	0	0	0	0	0	0	0	0	0	
22	ADDITIONAL CHANGE ORDER SHEETS	3							0	0	0	0	0	0	0	0	0	0	0	0	
23	Quality Control / Quality Assurance								0	0	0	0	0	0	0	0	0	0	0	0	
24	Constructability Review								0	0	0	0	0	0	0	0	0	0	0	0	
24	Peer Review								0	0	0	0	0	0	0	0	0	0	0	0	
Quantities and Cost Estimate (Preliminary)																					
1	Calculate Quantities	0	0	0	0	0	0	0	3	330	0	0	0	0	0	0	0	0	0	0	
2	Cost Estimate								2	330	0	0	0	0	0	0	0	0	0	0	
Project Specification (Preliminary)																					
1	Project Specifications - Special Provisions	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
2	Technical Specifications								0	0	0	0	0	0	0	0	0	0	0	0	
004 Airline Information Meeting																					
1	Airline Meeting Preparation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
2	Airline Meeting (To discuss Phasing and Timing of this project)								0	0	0	0	0	0	0	0	0	0	0	0	
3	Airline Meeting Minutes								0	0	0	0	0	0	0	0	0	0	0	0	
005 Final Plans and Specification Submittal																					
1	Construction Drawings	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
2	Quantities and Cost Estimate								0	0	0	0	0	0	0	0	0	0	0	0	
3	Project Specifications								0	0	0	0	0	0	0	0	0	0	0	0	
006 Final Airline Information Meeting																					
1	Airline Meeting Preparation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
2	Airline Meeting (To discuss Phasing and Timing of this project)								0	0	0	0	0	0	0	0	0	0	0	0	
007 Pre-Bid Assistance																					
1	Bid Advertisement	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
2	Pre-Bid Meeting								0	0	0	0	0	0	0	0	0	0	0	0	
3	Minutes from Pre-Bid Meeting (Answering Questions in Written Form)								0	0	0	0	0	0	0	0	0	0	0	0	
4	Answer Calls from Bidders								0	0	0	0	0	0	0	0	0	0	0	0	
5	Review Bids								0	0	0	0	0	0	0	0	0	0	0	0	

Reconstruction of Taxiway J and Taxiway M - Change Order

El Paso International Airport

City of El Paso

File: Cont-Proposal-Taxiway-J-Reconstruct Change Order 8-31-2009.xls

Date: August 31, 2009

DERIVATION OF ENGINEERING FEE PROPOSAL
(Engineering Design Services)

No. of Sheets	Principal Engineer	Project Manager	Professional Engineer	Engineering Analyst	Senior Construction Engineer	Field Inspector	Civil Designer	Clerical	Total Man-Hours	Labor Cost	Hours Per Sheet	Trips	Nights	People	Cars	Month	\$	Airfare	\$	Hotel	\$	Per diem	\$	Car Rental	\$	Truck Rental / Month	\$												
																												26	\$	4,590									
SUBTOTAL SCHEDULE II SERVICES												0	0	0	0	0	0	0	27	0	26	\$	4,590	0	0	0	0	0	\$	0	\$	0	\$	0	\$	0	\$	0	\$



LICON ENGINEERING CO.

PROPOSAL FOR GEOTECHNICAL ENGINEERING SERVICES

To: Mr. Michael Norby, P.E.
Kimley-Horn & Associates, Inc.
7600 N. 15th Street, Suite 250
Phoenix, Arizona 85020

Date: August 31, 2009
Project: EPIA Taxiway Evaluation Project
File No.: LEP09-326

Project Description: The project consists of the subsurface soil evaluation for the planned renovation of a taxiway within the existing El Paso International Airport, in east El Paso, Texas. Our study will concentrate on evaluating the existing subgrade soils at two representative locations along the planned taxiway to obtain parameters for pavement rehabilitation and design. The accessibility to the project site will be coordinated by Licon Engineering Co. in conjunction with El Paso International Airport.

General Scope of Services:

Task 1: Subsurface soil exploration, consisting of saw-cutting two representative (2x2 feet) areas in order to expose the support layers at each test area. We will collect representative samples from the subgrade soils to conduct laboratory tests.

Task 2: Soil testing to include soil classification parameters, moisture-density relationship determinations (proctor curves), and two California Bearing Ratio tests used for pavement design.

Task 3: Project management and engineering report to include a description of our field and laboratory testing methods and the results of our tests.

Fee Detail:

Task 1:	Coring services & field sampling	\$ 950.00
Task 2:	Laboratory testing	\$ 900.00
Task 3:	Engineering & administrative costs	\$ 750.00
TOTAL FEE:		\$2,600.00

Acceptance: We will submit a final invoice upon completion of the above listed tasks. If this scope and fee is acceptable, please review and sign the enclosed Agreement (Exhibit A) and the Credit Application form, and return to our office to provide authorization to proceed with our services. Payment is due upon invoice submittal. Exhibit A, this proposal, and the terms in the credit application constitute the complete agreement for performance of the above described services.

We appreciate your preference, and look forward to working with you on this important project. If you have any questions, or need further information, please contact us.

Copies to: Above (2)
I:\2009PROP\LEP09-326\EPIA\taxiwayevaluationfeeproposal.doc

EXHIBIT "A"
AGREEMENT

Project Name: EPIA Taxiway Evaluation Project
File No.: LEP09-326

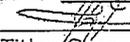
1. **ACCEPTANCE OF THIS AGREEMENT.** Client agrees that execution of this Agreement is a material element of the consideration Licon Engineering Co., Inc. (LEC Group) required to execute the Services, and if Services are initiated by LEC Group prior to execution of this Agreement as an accommodation for Client at Client's oral request, both parties shall consider that commencement of Services constitutes formal acceptance of all terms and conditions of this Agreement. Additional terms and conditions may be added or changed only by written amendment to this Agreement signed by both parties. In the event Client uses a purchase order or other form to administer this Agreement, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken. This Agreement shall not be assigned by either party without prior written consent of the other party.
2. **CHANGE ORDERS.** Client may request changes to the Scope of Services (Scope) by altering or adding to the Scope. If Client so requests, LEC Group will return to Client a statement (or supplemental proposal) of the change setting forth an adjustment to the Scope and fees for the requested changes. Following Client's review, Client shall provide written acceptance. If Client does not allow the changes, but instead directs, authorizes orally or permits LEC Group to perform modified services, the Scope will be changed accordingly and LEC Group will be paid for this work according to the fees stated or its current fee schedule. If project conditions change materially from those observed at the site or described to LEC Group at the time of proposal, LEC Group is entitled to a change order adjusting its Scope and fee.
3. **LIMITATION OF LIABILITY.** Client and LEC Group have evaluated the risks and rewards associated with this project, including LEC Group's fee relative to the risks assumed, and agree to allocate certain of the risks so that, to the fullest extent permitted by law, the total liability of LEC Group (and its related corporations and employees) to Client and third parties granted reliance is limited to its fee or \$50,000, whichever is greater, for any injuries, damages, claims, losses, or expenses (including attorney and expert fees) out of LEC Group's services or this Agreement, regardless of cause(s).
4. **INDEMNITY.** LEC Group and Client shall mutually indemnify and hold harmless each other, their representatives, and employees, from and against legal liability for all claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are caused by the joint or concurrent negligence of LEC Group and Client, they shall be borne by each party in proportion to its own negligence under comparative fault principles.
5. **WARRANTY.** LEC Group will perform the services in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale. LEC Group makes no warranties or guarantees, either expressed or implied, relating to its services, and LEC Group disclaims any implied warranties, or warranties imposed by law, including those of merchantability and fitness for a particular purpose.
6. **SUBSURFACE EXPLORATIONS.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. Client understands LEC Group's layout of borings and test locations is approximate and that LEC Group may deviate a reasonable distance from those locations. LEC Group will take reasonable precautions to reduce damage to the site when performing Services; however, Client accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the Services.
7. **TESTING AND OBSERVATIONS.** Client understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. Consultant will provide test results and opinions based on test and field observations only for the work tested. Client understands that testing and observation are not continuous or exhaustive and are conducted to reduce, not eliminate project risk. Client agrees to the level or amount of testing performed and the associated risk. Client is responsible (even if delegated to contractor) for notifying and scheduling LEC Group so LEC Group can perform these Services. LEC Group shall not be responsible for the quality and completeness of contractor's



Agreement-Exhibit "A"
 EPIA Taxiway Evaluation Project
 LEP09-326

work or their adherence to the project documents, and LEC Group's performance or testing and observation services shall not relieve contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. Consultant will not supervise or direct the work performed by contractor or its subcontractors and is not responsible for their means and methods.

8. **SAMPLE DISPOSITION, AFFECTED MATERIALS, AND INDEMNITY.** Samples are consumed in testing or disposed of upon completion of tests (unless stated otherwise in the Services), Client shall furnish or cause to be furnished to LEC Group all documents and information known or available to Client that relate to the identity, location, quantity, nature, or characteristic of any hazardous waste, toxic, radioactive, or contaminated materials ("Affected Materials") at or near the site, and shall immediately transmit new, updated, or revised information as it becomes available. Client agrees that LEC Group is not responsible for the disposition of Affected Material unless specifically provided in the Services, and that Client is responsible for directing such disposition. In the event that test samples obtained during the Services cannot reasonably be decontaminated, Client shall sign documentation (if necessary), required to ensure the equipment and reasonable disposal costs. LEC Group shall not be required to sign a hazardous waste manifest or take title to any Affected Materials. Client shall have the obligation to make all spill or release notifications to appropriate governmental agencies. The Client agrees that LEC Group neither created nor contributed to the creation or existence of any affected materials conditions at the site. Accordingly, Client waives any claim against LEC Group and agrees to indemnify and save LEC Group, its agents, employees, and related companies harmless from any claim, liability or defense cost, including attorney and expert fees, for injury or loss sustained by any party from such exposures allegedly arising out of LEC Group's non-negligent performance of services hereunder, or for any claims against LEC Group as a generator, disposer, or arranger of Affected Materials under federal, state, or local law or ordinance.
9. **TERMINATION.** Either party may terminate this Agreement of the Services upon written notice to the other. In such case, LEC Group shall be paid costs incurred and fees earned to the date of termination plus reasonable costs for closing the project.
10. **ALTERNATIVE DISPUTE RESOLUTION.** This Agreement shall be construed and interpreted solely in accordance with the Laws of the State of Texas. In the event of a dispute arising out of the performance of services by LEC Group, both Client and LEC Group agree to Alternative Dispute Resolution (ADR) as the preferred means to settle such dispute in lieu of litigation.
11. **OWNERSHIP OF DOCUMENTS.** Work product, such as reports, logs, data, notes, or calculations, prepared by LEC Group shall remain LEC Group's property. Proprietary concepts, systems, and ideas developed during performance of the Services shall remain the sole property of LEC Group. Files shall be maintained in general accordance with LEC Group's document retention policies and practices.
12. **THIRD PARTY RELIANCE.** This Agreement and the Services provided are for LEC Group and Client's sole benefit and exclusive use with no third party beneficiaries intended. Reliance upon the Services and any work product is limited to Client, and is not intended for third parties. For a limited time period not to exceed three months from the date on the report, LEC Group will issue additional reports to others agreed upon with Client; however, Client understands that such additional reports will not be issued until those parties sign and return LEC Group's Agreement and LEC Group receives the agreed-upon reliance fee.
13. **REPRESENTATIONS.** Each party represents that it has full corporate power and authority to enter into this Agreement and to do all things necessary for the performance of the Agreement contemplated herein.

Consultant: Licon Engineering Co., Inc.
 By: 
 Name/Title: Gerardo A. Licon, P.E., V.P.
 Address: 2101 E. Missouri Ave.
El Paso, Texas 79902
 Phone: 915-781-1532 Fax: 915-781-1190
 E-mail: glicon@lec-group.com
 Date: 08/31/09

Client: _____
 By: _____
 Name/Title: _____
 Address: _____
 Phone: _____ Fax: _____
 Email: _____
 Date: _____

